

To: Amy Dybas

From: Vicky Pulos

Date: July 10, 2015

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RE: Regulatory review of 130 CMR

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Pursuant to the MassHealth review of its regulations, I wanted to direct your attention to several regulations that have been a source of confusion in the past because the language does not correspond to MassHealth policy and practice. I believe most of these are just housekeeping changes, but the regulatory review seems like a good time to make them. Please let me know if I can supply any more information to clarify these suggestions.

**Income methodology that applies to disabled 19 and 20 year olds with family MAGI over 150% of poverty**

Policy and practice: 19 and 20 year old young adults are eligible for Standard if income of MAGI household is not over 150% FPL; if income is higher, 19 and 20 year olds are treated like other adults and qualify for Standard if their Disabled Adult MAGI is not over 133% FPL.

Here is what the rule says now:

130 CMR § 505.002 **MassHealth Standard**

(B) **Eligibility requirements for children and young adults.**

(3) **Young Adults.** (a) A young adult is eligible if (i) the modified adjusted gross income of the MassHealth MAGI household is less than or equal to 150 percent of the federal poverty level (FPL); and...

(E) **Disabled Individuals.** (1) **Disabled Adults.** A disabled adult 21 through 64 years of age is eligible for MassHealth Standard coverage if he or she meets the following requirements...

To reflect the actual policy, here is one way to clarify the rule:

130 CMR Section 505.002(E) **Disabled Individuals** (1) **Disabled Adults and certain Disabled Young Adults**. A disabled adult 21 through 64 years of age, or a disabled young adult age 19 or 20 who is not eligible as a Young Adult pursuant to 505.002(B) is eligible for MassHealth Standard coverage if he or she meets the following requirements...

## Scope of coverage for HIV positive individuals and certain Non-Qualified PRUCOL.

Policy and practice: HIV positive individuals with access to private coverage are eligible for Premium Assistance and in addition to MassHealth secondary coverage. Nonqualified PRUCOL are eligible for Family Assistance direct coverage if they do not have access to private coverage.

The eligibility regulations for Family Assistance are in 130 CMR § 505.005 (B)-(G) and the scope of coverage regulations are at § 450.105. The cross-referencing between the different groups of individuals eligible for Family Assistance in 505.005 (B)-(G) and the scope of coverage through Premium Assistance, in 450.105(G)(1), Direct Coverage in 450.105(G)(3) or Premium Assistance with MassHealth wraparound coverage in 450.105(G)(1)(c) has become confused and is no longer internally consistent.

To be consistent with other regulations and reflect the actual policy here is one way to clarify the rule:

### 130 CMR § 450.105 (G) **Family Assistance**

(1) **Premium Assistance.** The MassHealth agency provides benefits for MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B), (C), ~~or (D) or (E).~~

(a) For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B), ~~and (C) and (D),~~ the only benefit the MassHealth agency provides is partial payment of the member's employer-sponsored health insurance, except as provided in 130 CMR 450.105(~~G)(1)(b)H~~).

(b) For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B): *Eligibility Requirements for Children with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater Than 150 and Less Than or Equal to 300 Percent of the Federal Poverty Level*, the MassHealth agency provides dental services as described in 130 CMR 420.000: *Dental Services*.

(c) For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(~~ED~~): *Eligibility Requirement for HIV-Positive Individuals Who Are Citizens or Qualified Noncitizens with Adults and Young Adults Aged 19 and 20 Who Are Nonqualified PRUCOLs with Modified Adjusted Gross Income of the MassHealth MAGI Household Greater than 133 and Less than or Equal to ~~At or Below~~ 3200 Percent of the Federal Poverty Level*, the MassHealth agency issues a MassHealth card and provides

(i) full payment of the member's private health-insurance premium; and  
(ii) coverage of any services listed in 130 CMR 450.105(~~(G)(3)H~~) not covered by the member's private health insurance. Coverage includes payment of copayments, coinsurance, and deductibles required by the member's private health insurance.

(3) **Covered Services for Members Who Are Not Receiving Premium Assistance.** For MassHealth Family Assistance members who meet the eligibility requirements of 130 CMR 505.005(B), (~~C~~), (~~D~~), (E), (F) or (G), the following services are covered: ....

## Definition of Appeal Representative

Policy and practice: Licensed attorneys are recognized as appeal representatives who can file appeals for their clients.

The definition of an Appeal Representative in 501.001(3) and 515.001 includes a licensed attorney who notifies the Board of Hearings that he or she represents the appellant. Appeal Representatives can file appeals. 501.009(F)(3) and 515.007(F)(3). However, the definition of an Appeal Representative in 610.004 does not include an attorney.

To be consistent with other rules and reflect actual policy here is one way to clarify the rule:  
130 CMR 610.004

Appeal Representative – a person who

(1) is sufficiently aware of the appellant's circumstances to assume responsibility for the accuracy of the statements made during the appeal process, and who has provided the Office of Medicaid Board of Hearings with written authorization from the appellant to act on the appellant's behalf during the appeal process;

(2) has, under applicable law, authority to act on behalf of an appellant in making decisions related to health care or payment for health care. An appeal representative may include, but is not limited to, a guardian, conservator, executor, administrator, holder of power of attorney, or health-care proxy; ~~or~~

(3) is a licensed attorney who notifies the MassHealth Board of Hearings that he or she represents the appellant in an appeal. This shall also include a non-lawyer supervised by a licensed attorney; or

(4) is an ~~eligibility-authorized~~ representative meeting the requirements of (1) ~~or~~ (2) or (3) above.